

The applicant must furnish the necessary number of blank magnetic tapes. The tapes must be compatible for use in the supplier's computer system, ½ inch wide and 2,400 feet long, and must be capable of recording data at a density of 556 or 800 characters per inch. Unless otherwise designated, the tapes will be recorded at 556 CPI density. The Department of Transportation is not responsible for damaged tape. However, if the applicant furnishes a replacement for a damaged tape, the duplication process is completed at no additional charge.

(f) Microreproduction fees are as follows:	
(1) Microfilm copies, each 100 foot roll or less ..	\$3.75
(2) Microfiche copies, each standard size sheet (4"×6" containing up to 65 frames) .....	.15
(3) Aperture card to hard copy, each copy .....	.50
(4) 16mm microfilm to hard copy:	
First .....	.25
Additional .....	.07
(g) Computerline printer output, each 1,000 lines or fraction thereof .....	1.00

#### **§ 10.77 Services performed without charge.**

(a) No fee is charged for time spent in searching for records or reviewing or preparing correspondence related to records subject to this part.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a Member of Congress for official use;

(3) A request from a State, territory, U.S. possession, county or municipal government, or an agency thereof;

(4) A request from a court that will serve as a substitute for the personal court appearance of an officer or employee of the Department;

(5) A request from a foreign government or an agency thereof, or an international organization.

(c) Documents are furnished without charge or at a reduced charge, if the Chief Information Officer or the Administrator concerned, as the case may be, determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public.

(d) When records are maintained in computer-readable form rather than

human-readable form, one printed copy is made available which has been translated to human-readable form without a charge for translation but in accordance with § 10.75(g), regarding computer line-printed charges.

[45 FR 8993, Feb. 11, 1980, as amended at 73 FR 33329, June 12, 2008; 75 FR 5244, Feb. 2, 2010]

### **Subpart I—Criminal Penalties**

#### **§ 10.81 Improper disclosure.**

Any officer or employee of the Department who by virtue of his or her employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this part and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(1).

#### **§ 10.83 Improper maintenance of records.**

Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of § 10.21(d) of this part is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(2).

#### **§ 10.85 Wrongfully obtaining records.**

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department under false pretenses is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(3).

### **APPENDIX TO PART 10—EXEMPTIONS**

#### *Part I. General Exemptions*

Those portions of the following systems of records that consist of (a) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the

purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552a except subsections (b) (Conditions of disclosure); (c) (1) and (2) (Accounting of certain disclosures); (e)(4) (A) through (F) (Publication of existence and character of system); (e)(6) (Ensure records are accurate, relevant, timely, and complete before disclosure to person other than an agency and other than pursuant to a Freedom of Information Act request), (7) (Restrict record-keeping on First Amendment rights), (9) (Rules of conduct), (10) (Safeguards), and (11) (Routine use publication); and (i) (Criminal penalties):

A. The Investigative Records System maintained by the Assistant Inspector General for Investigations, Office of the Inspector General, Office of the Secretary (DOT/OST 100).

B. Police Warrant Files and Central Files maintained by the Federal Aviation Administration (DOT/FAA 807).

C. The Investigative Records System maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

These exemptions are justified for the following reasons:

1. From subsection (c)(3), because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only DOT but also the recipient agency, thereby permitting the record subject to take appropriate measures to impede the investigation, as by destroying evidence, intimidating potential witnesses, fleeing the area to avoid the thrust of the investigation, etc.

2. From subsections (d), (e)(4) (G) and (H), (f), and (g), because granting an individual access to investigative records, and granting him/her rights to amend/contest that information, interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source, disclose information that would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

3. From subsection (e)(1), because it is often impossible to determine relevancy or necessity of information in the early stages of an investigation. The value of such information is a question of judgement and timing: what appears relevant and necessary

when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, DOT may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, DOT should retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining evidence during an investigation, information may be provided to DOT that relates to matters incidental to the main purpose of the investigation but that may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

4. From subsection (e)(2), because in a law enforcement investigation it is usually counterproductive to collect information to the greatest extent practicable directly from the subject of the information. It is not always feasible to rely upon the subject of an investigation as a source for information that may implicate him/her in illegal activities. In addition, collecting information directly from the subject could seriously compromise an investigation by prematurely revealing its nature and scope, or could provide the subject with an opportunity to conceal criminal activities, or intimidate potential sources, in order to avoid apprehension.

5. From subsection (e)(3), because providing such notice to the subject of an investigation, or to other individual sources, could seriously compromise the investigation by prematurely revealing its nature and scope, or could inhibit cooperation, permit the subject to evade apprehension, or cause interference with undercover activities.

#### *Part II. Specific Exemptions*

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance 5 U.S.C. 552a(k)(2):

1. Investigative Record System (DOT/FAA 815) maintained by the Federal Aviation Administration at the Office of Civil Aviation Security in Washington, DC; the FAA regional Civil Aviation Security Divisions; the Civil Aviation Security Division at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma; the FAA Civil Aviation Security Staff at the FAA Technical Center in Atlantic City, New Jersey; and the various Federal Records Centers located throughout the country.

2. FHWA Investigations Case File System, maintained by the Office of Program Review and Investigations, Federal Highway Administration (DOT/FHWA 214).

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3. Federal Motor Carrier Safety Administration (FMCSA) Enforcement Management Information System, maintained by the Chief Counsel, FMCSA (DOT/FMCSA 002).

4. DOT/NHTSA Investigations of Alleged Misconduct or Conflict of Interest, maintained by the Associate Administrator for Administration, National Highway Traffic Safety Administration (DOT/NHTSA 458).

5. Civil Aviation Security System (DOT/FAA 813), maintained by the Office of Civil Aviation Security Policy and Planning, Federal Aviation Administration.

6. Suspected Unapproved Parts (SUP) Program, maintained by the Federal Aviation Administration (DOT/FAA 852).

7. Motor Carrier Management Information System (MCMIS), maintained by the Federal Motor Carrier Safety Administration (DOT/FMCSA 001).

8. Suspicious Activity Reporting (SAR) database, maintained by the Office of Intelligence, Security, and Emergency Response, Office of the Secretary.

9. Departmental Office of Civil Rights System (DOCRS).

These exemptions are justified for the following reasons:

1. From subsection (c)(3), because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only DOT but also the recipient agency, thereby permitting the record subject to take appropriate measures to impede the investigation, as by destroying evidence, intimidating potential witnesses, fleeing the area to avoid the thrust of the investigation, etc.

2. From subsections (d), (e)(4)(G), (H), and (I), and (f), because granting an individual access to investigative records, and granting him/her access to investigative records with that information, could interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source, disclose information that would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 U.S.C. 552a, in accordance with 5 U.S.C. 552a(k)(2):

1. General Air Transportation Records on Individuals, maintained by various offices in the Federal Aviation Administration (DOT/FAA 847).

2. Investigative Records System, maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

These exemptions are justified for the following reasons:

1. From subsection (c)(3), because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only DOT but also the recipient agency, thereby permitting the record subject to take appropriate measures to impede the investigation, as by destroying evidence, intimidating potential witnesses, fleeing the area to avoid the thrust of the investigation, etc.

2. From subsection (d), because granting an individual access to investigative records could interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source, disclose information that would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

C. The system of records known as the Alaska Railroad Examination of Operating Personnel, maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 100), is exempt from the provisions of subsection (d) of 5 U.S.C. 552a. The release of these records would compromise their value as impartial measurement standards for appointment and promotion within the Federal Service.

D. Those portions of the following systems of records consisting of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or access to classified information or used to determine potential for promotion in the armed services, are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a to the extent that disclosure of such material would reveal the identity of a source who provided information to the Government under an express or, prior to September 27, 1975, an implied promise of confidentiality (5 U.S.C. 552a(k) (5) and (7)):

1. Investigative Records System, maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

2. Investigative Record System, maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C. (DOT/FAA 815).

3. Files pursuant to suitability for employment with National Highway Traffic Safety

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Administration (DOT/NHTSA-457) containing confidential investigatory reports.

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility, or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, impliedly promised confidentiality (5 U.S.C. 552a(k) (5) and (7)).

E. Those portions of the following systems of records consisting of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Reference Files (DOT/NHTSA 457), maintained by the National Highway Traffic Safety Administration personnel offices to determine fitness for employment prior to hiring.

The purpose of these exemptions is to preserve the value of these records as impartial measurement standards for appointment and promotion within the Federal service.

F. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Investigative Record System maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

2. Personnel Security Records System, maintained by the Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Office of Civil Aviation Security, Federal Aviation Administration.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

G. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552a(b)(1) are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 U.S.C. 552a:

1. Investigative Record System (DOT/FAA 815) maintained by the Federal Aviation Administration at the Office of Civil Aviation Security in Washington, DC; the FAA re-

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gional Civil Aviation Security Divisions; the Civil Aviation Security Division at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma; the FAA Civil Aviation Security Staff at the FAA Technical Center in Atlantic City, New Jersey; and the various Federal Records Centers located throughout the country.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

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## PART 11—PROTECTION OF HUMAN SUBJECTS

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